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REMARKS

AUG 28 2006

Claim 1 has been amended and remains pending. Reconsideration and reexamination of the application, as amended, are requested.

The Examiner rejected claim 1 under 35 USC 112, first paragraph, by indicating that the specification, as originally filed, did not include the negative limitation of removing the trochanteric area while not removing the subtrochanteric area. Claim 1 was further rejected by 35 USC 112, second paragraph, as failing to comply with the enablement requirement wherein the Examiner indicated that Figs. 4-6 devoted to applicant's method, clearly show a cut extending substantially along the longitudinal axis of the femur thus extending through the subtrochanteric area as argued by Applicant in remarks against Sioufi.

Applicant has deleted the language "adjacent to subtrochanteric area but not the subtrochanteric area, without detaching the greater trochanter". This is the language which gave arise to the Section 112, first paragraph rejections. It is submitted that the rejections are moot.

The Examiner rejects claim 1 under 35 USC 102(b) as being anticipated by Sioufi.

Applicant has amended the first step of claim 1 in accordance with page 3, line 25 and Fig. 4. More particularly, claim 1 has been amended to read:

a surgical step to osteotomize trochanteric area starting with the first cut at the junction of the greater trochanter and femoral neck proximally, extending distally and laterally up to half of the width of the greater trochanter and then the second cut is angled from the first cut along the base of the femoral neck ending at the middle of the lesser trochanter and the final cut is again angled medially and proximally through the lesser trochanter.

Sioufi does not disclose this first surgical step as defined by the language quoted.

Rather, Sioufi discloses:

a cone-shaped cut into the proximal femur of a patient, said cut having a tip located on the postero lateral side of the femur at the sub-trochanteric level, a base

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located at the trans-trochanteric level and a central axis aligned with the one of the femoral neck.

Sioufi, at column 2, lines 48-53. That is, Sioufi discloses a cone-shaped cut. The method of claim 1 discloses a cut as defined which is different from a cone-shaped cut.

Furthermore, in Sioufi's disclosure, the femoral head is rotated in association with the greater trochanter because the greater trochanter remains attached to the femoral neck and head, while, in the method of claim 1, only the femoral head and neck is rotated and the greater trochanter remains in the original site because it remains attached to the femoral shaft. This leads to the following advantage. The amount of femoral head rotation is limited in Sioufi's method. The amount of rotation is usually less than 30 degrees because the capsule of the hip joint and the surrounding muscles remain without detachment and the attachment of the soft tissues prevents further rotation, while, in the method of claim 1, the amount of femoral head rotation can be increased until 130 degrees. This is possible because the joint capsule is incised as defined. The large amount of rotation gives more chance of success to preserve the femoral head even in a relatively large area of necrosis of the femoral head.

Thus, the method of claim 1 is not only not anticipated by Sioufi, but leads to non-trivial advantages such that the method of claim 1 is also non-obvious over Sioufi.

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration and reexamination are requested. Allowance of claim 1 at an early date is solicited. Any questions regarding this communication can be directed to the undersigned attorney, Curtis B. Hamre, Reg. No. 29,165 at (612) 455-3802.

Respectfully submitted,



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Dated: August 28, 2006